

**Remarks:**

After entry of the amendment, claims 2, 14-16, 28-29, 55-57 and 59 are pending.

The related applications section has been updated.

In the specification and claim 55 the name for the compound of Example 33b has been corrected. One skilled in the art would easily recognize that the compound of Example 33b is the compound of Example 33 and it was incorrectly named as the compound of Example 33a.

Claim 1 has been cancelled and replaced by claim 59 to comply with the restriction requirement for the compounds of Formula (III).

Claims 32 and 36 have been editorially amended

Claim 55 has been amended to comply with the restriction requirement for the compounds of Formula (III).

Claim 59 differs from original claim 1 in the definition of V. In particular, the definition of V has been amended to include a proviso that at least one of R<sub>4</sub> and/or R'<sub>4</sub> must be hydrogen for substituent R<sub>5</sub>, variable (a), when V is a hydrogen atom, and is supported by the specification at, for example, page 26, lines 16 to 30; and Examples 32–34 at page 97, line 8 to page 100, line 13. Each of these Examples support the proviso.

The dependency of claims 2 and 28 have been amended.

No issues of new matter should arise and entry of the amendment is respectfully requested.

**A. Restriction Requirement**

In response to the Restriction Requirement dated December 10, 2004, Applicants elected the Examiner's Group III with traverse. In the Office Action dated March 24, 2005, the Examiner made the restriction requirement final. Applicants thank the Examiner for indication that upon allowance of elected compound/composition claims, the method of use and kit claims will be rejoined. Applicants note that the compound claims relate to the method of use and kit claims as subcombination/combination.

**B. Rejection under 35 U.S.C. §112, Second Paragraph**

Claims 1, 2, 14-16 and 28-29 are rejected under 35 USC § 112, second paragraph, as being indefinite.

Claim 1 has been replaced by claim 59 that has been amended as suggested by the Examiner. Claims 32 and 36 have been amended as recommended by the Examiner.

In view of the above, Applicants respectfully submit that the claims satisfy the requirement under 35 USC § 112, second paragraph, and respectfully request that the rejection under this provision be withdrawn.

**C. Rejection under 35 U.S.C. §102 (b)**

Claims 1, 2, 14-16, 28-35, 37-39 and 55-57 are rejected under 35 U.S.C. §102(b) as being anticipated by Talley (U.S. Patent No. 5,859,257).

Applicants respectfully traverse the rejection and respectfully submit that the amended claims are not anticipated by Talley. In particular, Applicants note that the definition for "V" in independent claim 1 has been changed from the original definition of "V is -NO, -NO<sub>2</sub>, or a hydrogen" to the new definition in independent claim 59 of "V is -NO, -NO<sub>2</sub>, or a hydrogen; with the proviso that when V is hydrogen and R<sub>5</sub> is variable (a), then at least one of R<sub>4</sub> and R'<sub>4</sub> must be a halogen." This amendment is supported by the specification at, for example, page 26, lines 16 to 30; and Examples 32-34 at page 97, line 8 to page 100, line 13. Each of these Examples support the proviso.

Talley does not disclose or suggest compounds in which R<sub>5</sub> is substituent (a)  
-(C(R<sub>4</sub>)(R'<sub>4</sub>))<sub>k</sub>-Y-(C(R<sub>4</sub>)(R'<sub>4</sub>))<sub>k</sub>-B-(C(R<sub>4</sub>)(R'<sub>4</sub>))<sub>k</sub>-O-V (e.g., a lower (hydroxy)alkoxyalkyl group) substituted with at least one halogen (i.e., where at least one of R<sub>4</sub> and R'<sub>4</sub> must be a halogen). Talley does not provide any motivation for one to substitute  
-(C(R<sub>4</sub>)(R'<sub>4</sub>))<sub>k</sub>-Y-(C(R<sub>4</sub>)(R'<sub>4</sub>))<sub>k</sub>-B-(C(R<sub>4</sub>)(R'<sub>4</sub>))<sub>k</sub>-O-V (e.g., a lower (hydroxy)alkoxyalkyl group) with at least one halogen (i.e., where at least one of R<sub>4</sub> and R'<sub>4</sub> must be a halogen).

The compounds of the invention are not disclosed in Talley and are structurally different from the compounds described in Talley, and there is no motivation for one skilled in the art to make the claimed compounds based on the teachings in Talley.

In view thereof, Applicants respectfully submit that the claims of the present invention are not anticipated by and are unobvious over Talley, and respectfully request the rejection under 35 U.S.C. §102 be withdrawn.

**D. Rejection under 35 U.S.C. §103**

Claims 1, 2, 14-16, 28-35, 37-39 and 55-57 are rejected under 35 U.S.C. §103(a) as being obvious over Talley (U.S. Patent No. 5,859,257) taken alone or in combination with Bandarage et al (U.S. Patent No. 6,297,260).

Applicants respectfully traverse the rejection and respectfully submit that the presently claimed invention is unobvious over the cited references

As mentioned above, Talley does not disclose the compounds of the present invention. Additionally, there is no motivation in Talley for one to substitute the lower (hydroxy)alkoxyalkyl group described by Talley with at least one halogen. Talley, taken alone, does not render the claimed invention obvious.

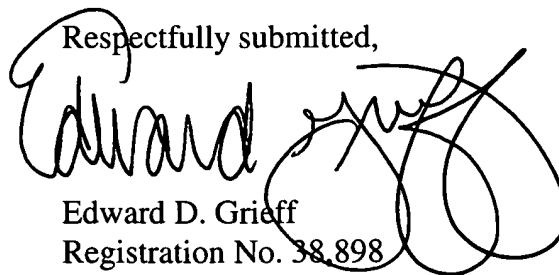
Bandarage does not cure the deficiencies of Talley. Bandarage does not provide any motivation or suggestion to modify Talley to arrive at the claimed invention. In view thereof, Talley in combination with Bandarage does not motivate one to arrive at the present invention.

In view thereof, Applicants respectfully submit that the claims of the present invention are unobvious over the cited references, alone and in combination, and respectfully request the rejection under 35 U.S.C. §103(a) be withdrawn.

**E. Conclusion**

Applicants respectfully request reconsideration and allowance of claims 2, 14-16, 28-29, 55-57 and 59. Examiner Stockton is encouraged to contact the undersigned at 202-942-8453 concerning any questions about the present application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Edward D. Grieff", with a large, stylized circular flourish at the end.

Edward D. Grieff  
Registration No. 38,898

Dated: June 13, 2005  
Wilmer Cutler Pickering Hale and Dorr LLP  
1455 Pennsylvania Avenue, NW  
Washington, DC 20004  
Phone: (202) 942-8453